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Transcript Exhibit(s)

Docket #(s): E-01345A-10-0136

Exhibit #: R1-R3

Arizona Corporation Commission
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November 2, 2007

**GALLAGHER & KENNEDY
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David J. Don

Law Offices of David J. Don, PLLC

301 East Bethany Home Road, Ste. B-100

Phoenix, Arizona 85012

**Re: Solcito Investments, LLC v. Arizona Public Service Co.
ACC Docket No. E-01345A-06-01 80**

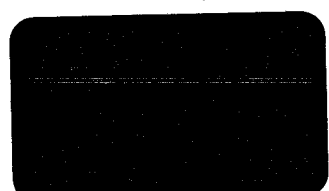
Dear Mr. Don:

This letter serves as the arbitrator's written notification of his decision in Solcito Investments, LLC's (Solcito) complaint against Arizona Public Service Co. (APS). Solcito filed its First Amended Formal Complaint on October 20, 2006. Administrative Law Judge Marc Stern granted Solcito's request for an informal arbitration in accordance with Arizona Administrative Code Rule 14-2-212 by Procedural Order on January 17, 2007.

A Preliminary Arbitration Conference was conducted on June 6, 2007 to discuss procedural and scheduling issues including filing of briefs, the parties desire to conduct discovery, and the establishment of an arbitration date. Solcito opined that discovery should be conducted. APS opined that it should not, as doing so would unduly burden APS in the informal process. It was decided that limited discovery would be conducted so as to ensure the parties' the opportunity to discover documents and facts necessary to the presentation of their cases in arbitration.

Coming to no agreement as to scheduling, the parties were directed to file with the arbitrator a joint proposed schedule for the filing and exchange of witness and exhibit lists, exchange of rebuttal witnesses and exhibits, exchange of a pre-arbitration memoranda, discovery deadlines, and a date for the informal arbitration. The arbitration date was to be no later than September 30, 2007.

APS unilaterally provided its proposed schedule to the arbitrator by letter dated June 26, 2007. APS stated that Solcito failed to respond to APS' efforts to discuss scheduling and provided a letter documenting its efforts to contact Solcito. Solcito did not provide a proposed schedule to the arbitrator.



November 2, 2007

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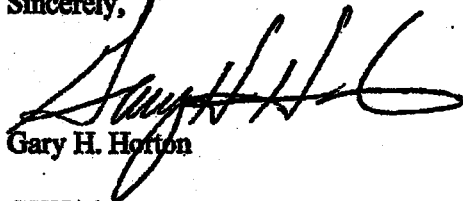
On July 5, 2007, the arbitrator notified the parties by mail of the pre-arbitration schedule and set the arbitration on September 13, 2007 at the offices of the Arizona Corporation Commission. The July 5, 2007 letter further scheduled the parties' exchange and filing with the arbitrator of witnesses and exhibits by July 31, 2007, the exchange and filing with the arbitrator of lists of rebuttal witnesses and exhibits by August 21, 2007, and the exchange and filing with the arbitrator of pre-hearing memoranda by August 31, 2007.

APS provided its list of witnesses and exhibits to Solcito and the arbitrator on or before July 31, 2007. Solcito did not provide a list of witnesses and exhibits to either the arbitrator or APS. APS provided its pre-arbitration memoranda to Solcito and the arbitrator on or before August 31, 2007. Solcito did not provide pre-arbitration memoranda to APS or to the arbitrator. Neither Solcito nor APS conducted discovery.

On September 5, 2007, APS filed its Motion to Vacate Informal Hearing. On September 10, 2007, APS filed its Motion to Continue Informal Hearing. On September 12, 2007, Solcito filed its Joinder in APS' Motion to Continue Informal Hearing. The arbitration was held on September 13, 2007 at 9 am in the Commissioner's Conference Room at the Arizona Corporation Commission in Phoenix. APS appeared and withdrew its Motions to Vacate and Continue the arbitration. Solcito did not appear.

In accordance with A.A.C. R14-2-212, Solcito requested and was granted the opportunity to present its case in informal arbitration. Solcito then did nothing to avail itself of the opportunity given. It is the arbitrator's decision that Solcito's informal complaint against APS is dismissed. It is the arbitrator's decision that the Arizona Corporation Commission has fulfilled its obligations to provide the complainant with the opportunity for informal arbitration of its claims.

Sincerely,



Gary H. Horton

GHH/gh

cc: Wm. Charles Thomson, Esq., APS
Vicki Wallace, Utilities Division, Arizona Corporation Commission

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2007-009464

04/30/2009

HONORABLE L. GRANT

CLERK OF THE COURT
K. Ballard
Deputy

SOLCITO INVESTMENTS L L C

DAVID J DON

v.

ARIZONA PUBLIC SERVICES CO

W CHARLES THOMSON III

DOCKET-CIVIL-CCC

JUDGMENT ENTERED

The Court having previously granted Defendant's Motion for Partial Summary Judgment on Arizona Public Services Company's Counterclaim,

IT IS ORDERED entering partial summary judgment in favor of Arizona Public Service Company, on its Counterclaim, against Solcito Investments, LLC in the amount of \$13,479.56 for electric service provided to Solcito Investments, LLC between July 2005 and December 26, 2008.

/ s / HONORABLE L. GRANT

JUDICIAL OFFICER OF THE SUPERIOR COURT

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES



BRIAN C. McNEIL
Executive Director

ARIZONA CORPORATION COMMISSION

February 16, 2006

George Bien-Willner
 3641 N. 39th Avenue
 Phoenix, AZ 85019

RE: 260 Café, Complaint No. 2005-44386

Dear Mr. Bien-Willner:

This letter is being sent to advise that the Utilities Division Staff ("Staff") of the Arizona Corporation Commission ("Commission") has completed its investigation on Complaint No. 2005-44386, which alleges, among other things, that the meter at your Payson restaurant is not accurately recording your electric usage.

Staff has investigated your complaint and has based its conclusions upon the following facts. An outage occurred on May 28, 2005 at the 260 Café, 803 Highway 260, Payson, Arizona. Although your Complaint states that the outage occurred at approximately 6:30 a.m., the first call recorded by the APS Call Center concerning this matter was received at 9:34 a.m. An APS technician arrived at your property at 10:14 a.m.; he installed a temporary line and restored service by 11:44 a.m. On the day of the outage, APS also inspected your meter and concluded that it was working properly. The following week APS permanently repaired the distribution line serving your property by rerouting it and upgrading the wire from 1/0 to 4/0.

On June 24, 2005, you advised the Commission that your meter was functioning erratically. You concluded that "something was not right" since APS had completed its repairs, and you asked to have the meter changed. APS attempted to change your meter, but you were reluctant to allow APS access to your property. Eventually, we arranged for Staff to be present during the meter exchange. On August 26, 2005, Staff inspected your facility (including the restaurant and parking lot) and was present for the meter exchange. Staff was also present at the meter test, which was performed on September 6, 2005, at APS' Phoenix testing facility.

The meter test results fall within the allowable limits set forth in A.A.C. R14-2-209.F. APS sent you a letter with the meter test results on September 21, 2005.

Because of your concerns about the accuracy of the meter, you have not made your full monthly payment since June but have instead paid only the amount you felt to be equitable. When the meter test results showed that the meter was reading accurately, APS informed you that your service would be subject to normal termination procedures unless you satisfied the unpaid

balance of your electric bills. Termination of your service has been delayed to allow Staff to review this matter.

From the facts presented, it appears that there is no reason to conclude that your meter is not accurately recording your usage. As a consequence, there is no reason to conclude that bills based upon this meter are not accurate.

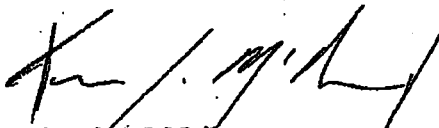
Your complaint also alleges that you have suffered property damage caused by the outage itself, by APS' inadequate response, and by APS' subsequent repairs. On May 28, 2005, you asked APS to visit the site to verify the damage to your equipment. APS advised you that it does not perform site visits for this purpose but that you could file a claim with the APS Claims Department. As of this time, APS has indicated it has not received an *official* claim for losses.

Regardless of whether there is a pending claim or not, issues regarding monetary damages or attorney fees are not within the Commission's purview. These issues may be addressed to the APS Claims Department or other appropriate forum.

Pursuant to Commission Rules, you may file a formal complaint if you believe that the utility has not rectified your issues. If you choose to file a formal complaint, Staff will be glad to mail the packet to you or you can pick it up at our office. Based on your discussions and correspondence with Commission Staff, I am confident you are aware of the benefits and limitations of our formal complaint process.

If you have questions regarding this matter, please call me at 602-542-3931.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian C. McNeil", is written over a horizontal line.

Brian C. McNeil
Executive Director

Cc: APS - Jennie Vega